

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

May 11, 2005

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. **County of Orange NPDES Inspection Sub-committee Meeting** *(Tony Felix)*

On April 14, 2005, John Phillips and Tony Felix, Water Resource Control Engineers with the San Diego Regional Water Quality Control Board attended the County of Orange National Pollutant Discharge Elimination System (NPDES) Inspection Subcommittee meeting in Irvine. Robert Naeser of Tetra Tech, Inc., a consultant to USEPA, and Duc Nguyen of the County of Orange gave a presentation on the procedures of conducting industrial storm water inspections.

The meeting provided a training module on how the State and Regional Boards conduct compliance evaluation industrial storm water inspections. The training also served to enhance the Orange County's industrial storm water program and to develop consistency in evaluating compliance industrial inspections by the copermittes and the Regional Boards.

2. **Bring-Your-Child-To-Work Day** *(Laurie Walsh)*

On May 4, 2005 the San Diego Regional Water Quality Control Board participated in its annual Bring-Your-Child-To-Work Day. During the first part of the day, the children and parents toured SeaWorld to learn how the adventure park pumps, treats and discharges water to Mission Bay for its Life Support Systems. SeaWorld also provided an overview of its numerous water and waste management programs and provided a tour of the facility. The staff at SeaWorld provided an educational and memorable experience for the 11 Regional Board staff and their 20 children. In the afternoon, the parents and children enjoyed a pizza lunch at the Regional Board office. During lunch, the children learned about ground water and pollution transport by sipping a straw in a cup of soda that had layers of crushed ice, ice cream, lemon drops, and food coloring. The children met our staff and toured the Regional Board office facility.

PART B

SIGNIFICANT REGIONAL WATER QUALITY ISSUES

1. **Sanitary Sewer Overflows (SSO)** *(Charles Cheng, Bryan Ott, Victor Vasquez)* *(Attachment B-1)*

From April 1 to April 30, 2005, there were 21 sanitary sewer overflows (SSOs) from publicly-owned collection systems reported to the Regional Board office; 10 of these spills reached surface waters or storm drains of which three resulted in closure of recreational waters. Of the total number of overflows from public systems, six were

1,000 gallons or more. The combined total volume of reported sewage spilled from all publicly owned collection systems for the month of April 2005 was 72,408 gallons.

There were also 13 sewage overflows from private property reported in April 2005. Three reached surface waters or storm drains. Two resulted in closure of recreational waters. Of the total number of overflows from private property, two were 1,000 gallons or more.

The total rainfall amount for April 2005 recorded at San Diego Lindbergh Field was 0.59 inches. For comparison, in March 2005, 2.12 inches of rainfall were recorded at San Diego's Lindbergh Field, and 15 public SSOs were reported. Also for comparison, in April 2004, 0.60 inches of rainfall were recorded at San Diego's Lindbergh Field and 23 public SSOs were reported.

Attached is a table entitled "Sanitary Sewer Overflow Statistics," updated through April 30, 2005, which contains a summary of all sanitary sewer overflows (by FY) from each agency since FY 2001-2002.

It should be noted that the data for spill volume per volume conveyed could be easily misinterpreted for a sewer agency that has a small system size but experiences a spill of a few hundred gallons or more. The converse is also true for a sewer agency that has a large system. Hence, these numbers by themselves are not sufficiently representative of the measures being taken by a sewer agency to prevent SSOs, nor can the numbers be compared directly between agencies. The data does represent a different way to review and analyze SSO volume data as it relates to system size.

For additional information on SSO's in FY 2003-2004 see the table entitled "Public SSO Statistics Summary for FY 2003-2004 (July 1-June 30)" attached to the October 2004 Executive Officer's Report (also available on the Regional Board's website www.swrcb.ca.gov/rwqcb9). Additional information about the Regional Board's SSO regulatory program is available at the Regional Board's website at <http://www.swrcb.ca.gov/rwqcb9/programs/sso.html>.

No Notices of Violation for SSOs were issued during the month of April 2005.

2. Clean Water Act Section 401 Water Quality Certification Actions Taken in April 2005 (Stacey Baczkowski) (Attachment B-2)

Section 401 of the Clean Water Act requires that any person applying for a federal permit or license which may result in a discharge of pollutants into waters of the United States, must obtain a state water quality certification that the activity complies with all applicable water quality standards, limitations, and restrictions. The majority of project applications are submitted because the applicant is also applying for a Section 404 permit from the Army Corps of Engineers, for filling or armoring of creeks and streams. See attached table (B-2).

Public notification of pending 401 Water Quality Certification applications can be found on our web site at: <http://www.waterboards.ca.gov/sandiego/programs/401cert.html>.

3. Grants Update (*Dave Gibson*) (*Attachment B-3*)

Status of Proposition 13 and 319(h) Grant Program Projects

The Regional Board and the SWRCB are continuing to work with several Proposition 13 grantees who are now in breach of contract or whose projects are considerably behind schedule. The Regional Board will work with these grantees to attempt to return them to schedule. Among the projects that may need to be terminated is the USDA *Caulerpa taxifolia* Eradication Project. The Regional Board met with the Project Director and agreed that the project responsibility should be transferred if practicable. The Regional Board is working with USDA to transfer the grant to a third party so the work on preventing the re-establishment of *Caulerpa taxifolia* can continue.

Agricultural Water Quality Grant Program (AWQGP)

The Selection Panel met on April 15, 2005 to review the modified proposals submitted by the applicants. Final recommendations on the proposals were made and the SWRCB has notified all applicants of the funding recommendations. One project submitted by the Avocado Commission was conditionally recommended for funding. The complete recommended project list is attached (Attachment B-3). The California Bay Delta Authority will review the recommended Prop 50 projects at its June meeting. All of the recommended projects will be considered by the SWRCB at its June 1, 2005 workshop and June 16, 2005 meeting.

Proposition 50 Integrated Regional Water Management (IRWM) Grant Program

The final version of the Planning and Implementation Grants, Step 1 Proposal Solicitation Packages (PSPs) was released on March 18, 2005 on the SWRCB and Department of Water Resources (DWR) websites. On April 15, 2005, the SWRCB and DWR held a special PSP workshop in San Diego that was attended by approximately 60 people from San Diego and Orange counties. The submittal deadline for IRWM Planning grant proposals is May 12, 2005, and Step 1 IRWM Implementation grant proposals will be due July 14, 2005. A Review Panel including the SWRCB, Regional Boards, DWR, California Coastal Commission, and California Department of Fish and Game will convene starting May 23, 2005 to review and rank the proposals for funding recommendation to the Selection Panel.

Consolidated Proposition 40 and Proposition 50 Grants Program

The SWRCB is preparing to initiate the Consolidated Proposition 40 and Proposition 50 Grants Program. A focus meeting will be held in Sacramento on May 11, 2005 for SWRCB, Regional Board and other agencies to begin work on the guidelines for the program. The Proposition 40 and Proposition 50 programs that will be included in this Consolidated Grants include:

- Coastal Non-Point Source Pollution Control Program (\$33.1 Million);
- Non-Point Source Pollution Control Program (\$19 Million);
- 319(h) Program (\$4.5 Million);

- Agricultural Water Quality Grant Program (\$14 Million).
- Integrated Watershed Management Program (\$47.5 Million);
- Urban Storm Water Program (\$14.25 Million);
- CALFED Watershed Program (\$7.7 Million); and
- CALFED Drinking Water Program (\$2.4 Million).

The Consolidated Grants program will make approximately \$142 million dollars available for projects in starting in late 2006. This will be the last significant grant program from the Proposition 40 and 50 bond act funds.

State Revolving Loan Fund Program

The SWRCB has posted the State Revolving Loan Funding (SRF) Program's Draft Project Priority List (PRL) on its website for public review. The SWRCB is accepting comments during the public comment period. Written comments on the PRL must be received by the SWRCB no later than 5:00 p.m. on May 23, 2005. The PRL will be presented at the SWRCB, Public Workshop on June 1, 2005 prior to consideration for adoption by the SWRCB on June 16, 2005. The SWRCB will also accept oral comments on the PRL at the Workshop on June 1, 2005.

Clean Beaches Initiative (CBI) Grant Program

The SWRCB adopted the recommended location list for the second phase of Prop 40 funding at its April 21 meeting. DFA staff is conducting regional workshops for potential applicants. The final workshop was held on May 3, 2005 at the San Diego Regional Water Board Hearing Room and was lightly attended.

Dairy Water Quality Grants Program (DGP)

The comment period on the Draft Guidelines for implementing the program ended April 15, 2005. The SWRCB is revising the Guidelines in response to comments received. The revised Guidelines will be provided to the California Bay Delta Authority for review at its June meeting. The Guidelines will be presented to the SWRCB at the June 1, 2005 workshop and will be considered for adoption at the June 16 Board meeting.

Information on the DGP can be found at:

<http://www.waterboards.ca.gov/funding/dairy.html>

4. Proposition 13 Grant Audit Information (Chiara Clemente, David Gibson) (Attachment B-4)

The State Department of Finance (SDF) has issued an "engagement letter" to the Project Director of Lakeside's River Park Conservancy (Conservancy) for an audit of all the State Bond funds received by that entity (i.e. Prop 12, Prop 13, Prop 40, and Prop 50). The Conservancy is currently managing a Phase II, Prop 13 grant for \$1,290,725 to construct an off-channel treatment wetland and a Phase III, Prop 13 grant for \$1,105,700 to remove industrially zoned fill and conduct restoration along the San Diego River. In addition to these two grants, which Regional Board staff oversees, the Conservancy has obtained an additional \$12.1 million in grant funds from Propositions 12, 13 and 40, through both legislative set-asides and competitive awards. This will be the second audit of State Bond funds in our Region. Staff has not yet been directly contacted about this audit, and no information has been requested by either the Conservancy or SDF. The

Regional Board's role in this audit is minimal, since this audit is focused on the grantee's performance. The results of this audit, however, could be reflective of the Regional Board's oversight.

The audit by SDF will consist of a formal entrance conference, where the auditors become familiar with the entity's structure. This is followed by a planning stage, where the auditors review the contracts, actions, and expenditures, and then by a testing stage, where the auditors randomly select certain actions and expenditures and verify their existence and appropriateness. The auditors will then provide a final report, and conclude the audit with an exit interview. All grant recipients in our region may be subject to a similar audit process. Attached is a copy of the documents requested upon initiation of the audit.

The Regional Board and SWRCB are preparing a Project Directors' workshop that will include a session on preparing for audits that will include lessons learned from this audit.

5. 2005 – 2006 State Revolving Fund Priority List (*Brian Kelley*)

The State Water Resources Control Board (SWRCB) manages and implements the State Revolving Fund (SRF) as one of its financial assistance programs. The SRF program provides low interest loans to address water quality problems associated with discharges of wastewater and water reclamation facilities, as well as for nonpoint source discharges and for estuary enhancement. The program has operated since 1989 and has issued over \$2.7 billion in loans to local agencies.

Because the number of applicants and requested loan amounts exceed the loan funds available, the SWRCB maintains a priority list from which projects are chosen for funding. Each year, the SWRCB sends out a preliminary priority list and requests input from Regional Boards and other interested parties. An updated priority list, from which projects are chosen for funding in the fiscal year that follows, is usually adopted by the SWRCB in June.

In January 2005, the SWRCB provided notification that, at the present time, the cash flow balance of the SRF program has been fully committed and does not allow for any further commitment of funds. No new loan applications are to be accepted, and all activities associated with loan applications recently received will remain on hold until after the sale of leverage bonds is completed. The sale of leverage bonds is currently scheduled for May 2005. The SWRCB did, however, request assistance from the Regional Boards and interested parties in updating the priority list to document current funding needs and insure that SWRCB is prepared to identify projects when the program resumes. On February 9, 2005, the Regional Board sent a request to all interested agencies for updates to the current priority list. The Regional Board received changes/updates from the City of San Diego, Padre Dam MWD, South Orange County Wastewater Authority (SOCWA), and Trabuco Canyon WD and forwarded these updates to the SWRCB in April 2005. The updated priority list will be presented at a SWRCB Public Workshop on June 1, 2005 prior to consideration for adoption by the SWRCB on

June 16, 2005. The SWRCB is hopeful that the program will resume during fiscal year 2005/2006.

For additional information concerning the state revolving fund priority list visit the following SWRCB website: http://www.waterboards.ca.gov/cwphome/srf/srf_plist.html

6. Enforcement of Storm Water Ordinances by Municipalities at Construction Sites (*Eric Becker*)

On March 29, 2005, the City of San Clemente issued an administrative monetary citation in the amount of \$ 65,000 to Talega Associates, LLC for violations of the city's storm water ordinance. The 600-acre Talega development failed to implement adequate Best Management Practices during the rainy season causing prohibited discharges of sediment-laden water into and from the City's MS4 system. The Regional Board conducted joint inspections with City personnel and issued Notice of Violation No.R9-2004-0457 to the developer in support of the City's efforts.

The City of San Clemente's administrative monetary citation is one example of an effective enforcement action being taken by a municipality to address the failure by a developer to implement adequate erosion control measures. Other municipalities have been using their authority to issue "stop-work orders" to obtain compliance by developers. The County of San Diego has extensively utilized stop work orders at many subdivisions including a 300-acre development in Valley Center that was shut down for weeks until adequate erosion and sediment control BMPs were implemented. The City of Murrieta has also effectively used stop work authority at several commercial and subdivision construction sites this rainy season.

7. AB 885 Regulations – Onsite Wastewater Treatment Systems (*Bob Morris*)

Pursuant to Assembly Bill 885 and as prescribed by California Water Code section 13291, the State Water Resources Control Board (SWRCB) is currently in the process of considering new statewide regulations for the permitting and operation of onsite wastewater treatment systems (OWTS). The latest draft of the proposed regulations can now be accessed on the SWRCB website at <http://www.waterboards.ca.gov/ab885/>.

An OWTS is any individual or community onsite wastewater treatment, pretreatment, and dispersal system. The most common OWTS in the San Diego Region is the "conventional" septic tank/leach field system. There are also a few systems referred to as "alternative systems" such as mounds and evaporation/transpiration systems. In addition, the SDRWQCB recently has received several proposals for onsite systems referred to as "experimental systems". These systems, which are designed to reduce pathogen and nitrate levels in the discharge, consist of small treatment plants with shallow subsurface drip irrigation systems on individual home sites and commercial lots.

As part of its process to adopt these regulations, the SWRCB will prepare an Environmental Impact Report (EIR) comparing this latest draft of the regulations to other alternatives. The draft regulations and alternatives and possible environmental impacts will be discussed in an "Initial Study" that will accompany the "Notice of Preparation".

To initiate the EIR process, the SWRCB will conduct a series of public scoping meetings to solicit input on topics to be addressed in the EIR. These meetings will be scheduled late May or early June in Redding, Santa Rosa, Sacramento, Malibu, and Riverside.

The SWRCB made several noteworthy changes to an earlier draft version of these regulations, which was discussed in the August 11, 2004 Executive Officer Report. These changes included the following:

- The latest draft allows the RWQCBs to continue to regulate OWTS under conditional waivers of WDRs. Previously, the proposed regulations would have required the RWQCBs to issue waste discharge requirements for all OWTS beginning in January 1, 2009.
- The latest draft only requires ground water monitoring for persons that have domestic wells located on or immediately adjacent to their property and only upon installation of the system and whenever the property is subsequently transferred to a new owner. The previous draft had required all new conventional OWTS to be evaluated annually using a representative sample from the unsaturated zone directly beneath the dispersal field.
- The latest draft does not mandate the upgrade of conventional systems to advance treatment systems unless the system is located within 600 feet of an impaired water body and the Regional Water Board has identified OWTS as contributing to the impairment.

Other prescriptive and performance-based requirements contained in the latest draft include the following:

- Existing Regional Water Quality Control Plans (basin plans) have requirements for the separation between the discharge of new OWTS and seasonal high groundwater or bedrock. The draft regulations include minimum separation requirements.
- Specific methodology for determining the seasonal high groundwater level.
- A septic tank inspection requirement upon transfer of property ownership.
- A requirement for mechanisms to prevent solids in excess of 1/8 inches in diameter from entering the dispersal system in all new OWTS.
- Minimum application rates for wastewater discharged to the soil dispersal systems.
- Specific performance requirements for OWTS that include supplemental treatment units where such units are allowed or required by the permitting agency.

The SDRWQCB will continue to provide input to the SWRCB as they proceed with the environmental assessment and public participation process for these new regulations.

8. Military Base Completes Environmental Cleanup (*Laurie Walsh*)

On May 4, 2005 the Regional Board concurred with the Navy's recommendation for no further action at Installation Restoration (IR) Site 5, the Former Fire Fighting Training Facility. The action marks the conclusion to investigation and cleanup work to remediate historical releases identified within the IR Program at the Fleet Antisubmarine Warfare Training Center (FASWTC). The Navy's willingness and promptness in responding to Regional Board inquiries mark the first installation in the San Diego Region to complete investigation and cleanup at all of their historical release sites.

9. Status of Administrative Civil Liability (ACL) Complaints (*Mark Alpert, Frank Melbourn, Vicente Rodriguez, Rebecca Stewart, Compliance Assurance Unit*)

The following is the status of list of Administrative Civil Liability (ACL) Complaints issued this Fiscal Year for which hearings have not occurred and the potential liabilities have not been resolved. Complete details of the Complaints can be found on the Regional Board web site at <http://www.waterboards.ca.gov/sandiego/>

A. City of Escondido, Hale Avenue Resource Recovery Facility (HARRF)

Violations of Effluent Limitations subject to Mandatory Minimum Penalties

During the months of May and June of 2004, the City of Escondido's Hale Avenue Resource Recovery Facility (HARRF) experienced problems with the biological treatment process that adversely affected effluent quality resulting in numerous violations of its NPDES permit requirements for the discharge of treated wastewater to the Pacific Ocean through the San Elijo Ocean Outfall (Order No. 99-72, NPDES permit No CA0107981). In total, the City of Escondido reported that 399 violations of effluent limitations occurred between May 3 and August 17, 2004, which included violations of daily maximum, average weekly, and average monthly limitations, for both carbonaceous biological oxygen demand (CBOD) and total suspended solids (TSS) concentrations. These violations are subject to the Mandatory Minimum Penalties (MMPs) under California Water Code (CWC) sections 13385(h) and (i).

On November 30, 2004, the Executive Officer issued an ACL Complaint to the City recommending a \$1,188,000 liability be assessed based on the MMP in response to the reported effluent limitation violations. After issuance of the complaint, the City requested additional time to prepare its response. Subsequently, the Executive Officer issued an Investigative Order to the City (Order No. R9-2005-0077), directing the City to submit a technical report investigating the circumstances of violations, the cause and effect on the plant, information about operation control at the plant, and the affect on receiving waters.

To accommodate the City's request for a delay, the Executive Officer withdrew the complaint with the intent of reissuing a new complaint to provide the necessary time beyond the initial 90 days to convene a hearing on the matter. The Executive Officer has not yet reissued the complaint.

After considerable delay, the City submitted the required investigative report on April 5, 2005. The Regional Board is reviewing the City's submittal, as well as information developed from a joint investigation by the State and Regional Board. It is anticipated that the matter will be brought before the Regional Board at the August 10, 2005 Board meeting.

**B. City of San Diego, Point Loma Treatment Plant, San Diego, CA
ACL Complaint No. R9-2005-0083**

On February 25, 2005, the Executive Officer issued ACL Complaint No. R9-2005-0083 in the amount of \$42,000 to the City of San Diego (City) for 16 violations of effluent limitations contained in the NPDES Permit for the Point Loma Metropolitan Wastewater Treatment Plant Discharge to the Pacific Ocean through the Point Loma Ocean Outfall, San Diego County.

In response to the complaint, on March 30, 2005, the City of San Diego, notified the Regional Board of its intent to waive its right to a hearing, but requested that the Regional Board consider approving Supplemental Environmental Projects (SEPs) as part of the settlement of this matter. A detailed list of potential projects is being prepared by the Metropolitan Wastewater Department for Regional Board review.

The ACL hearing on this matter has been rescheduled for the June 8, 2005 Regional Board meeting. A 30-day comment period will be established for Interested Parties to comment on a proposed settlement and SEPs if any, beginning May 3, 2005 and ending June 2, 2005.

C. JRMC Real Estate, Inc, Escondido Research & Technology Center, Escondido, CA. ACL Complaint No. R9-2005-0059

On March 10, 2005, the Regional Board issued a \$1,260,600 ACL Complaint No. R9-2005-0059 to JRMC Real Estate, Inc for alleged violations at the 186-acre Escondido Research and Technology Center (ERTC) site under construction in Escondido, California. The complaint alleges ongoing violations of the Construction Storm Water Permit (State Board Order No. 99-08-DWQ), including; 82 days of sediment discharge to Escondido Creek directly or indirectly via the City of Escondido's Municipal Separate Storm Sewer System (MS4), 166 days of inadequately installed Best Management Practices (BMPs); at least 16 days of failure to collect and analyze storm water runoff and to submit monitoring reports, and failure to assess BMPs after storm events in violation of Cleanup and Abatement Order (CAO) R9-2004-0420. The CAO was issued in November 2004. To date, the site is not yet in compliance with the construction storm water permit and conditions established in the CAO. Multiple days of additional discharges of sediment have been documented since the Complaint was first issued.

The Regional Board is scheduled to consider the assessment of liability at the June 8, 2005 Regional Board meeting. Since issuance of the complaint the discharger has not provided any written response to the alleged violations. Nevertheless,

representatives of JPMC Real Estate, Inc. have requested the June 8, 2005 hearing be postponed to delay the Regional Board consideration of this matter. The request did not include any documentation to support the request. Without information to support such a request, the Executive Officer intends to present the matter to the Board at the June 8 hearing date. The written comment period, however, has been extended from April 27, 2005 to May 25, 2005.

D. City of Escondido, MS4 Permit, Escondido, CA
ACL Complaint No. R9-2005-0097

On March 10, 2005, the Regional Board issued a \$129,000 ACL Complaint No. R9-2005-0097 to the City of Escondido. The complaint alleges the City's failure to reduce the discharge of pollutants to the Maximum Extent Practicable (MEP) in violation of the San Diego Municipal Storm Water Permit, Order No. 2001-01 at the Escondido Research and Technology Center (ERTC) site under construction in Escondido, California.

Since issuance of the complaint the City has not provided any written response to the alleged violations. The Regional Board is scheduled to consider the complaint and assess liability at the June 8, 2005 Regional Board meeting. The City has requested the June 8, 2005 hearing be postponed to delay the Regional Board consideration of this matter as in the case of JPMC Real Estate. The request did not contain information supporting the request. The Executive Officer intends to present the matter to the Board at the June 8 hearing date, and the written comment period has been extended from April 27, 2005 to May 25, 2005.

E. Florida Southchase and Fieldstone at Morro Hills Escondido, CA
ACL Complaints Nos. R9-2005-0107 and R9-2005-0108

On March 17, 2005, the Regional Board issued ACL Complaints in the amounts \$262,500 and \$242,500 to Florida Southchase and Fieldstone (Complaint Nos. R9-2005-0107 and R9-2005-0108, respectively) for violations at adjacent construction project known as the Morro Hills development site in Oceanside, California. The complaints allege 6 days of sediment discharge to waters of the State and 135 days of inadequately installed BMPs in violation of the Statewide Construction Storm Water Permit (State Board Order No. 99-08-DWQ). These are the same two construction projects that received CAOs in March 2005 to correct construction storm water violations.

In response to the ACL complaints, on April 25, 2005, Fieldstone Communities, Inc. and Florida Southchase, L.P. tendered a proposed combined settlement of the liability. The proposed settlement consists of:

- Combine the complaints into a single liability and pay \$262,500 liability to the State Water Resources Control Board for deposit into the Cleanup and Abatement Account;
- Correct and/or install adequate BMPs and comply with the Construction Storm Water Permit now and in the future at all construction sites within the state;

- Pay the Regional Board \$16,000 costs to provide oversight of the Cleanup and Abatement Orders;
- Complete a Habitat Impact Assessment Report by May 30, 2005
- Waive right to petition this matter to State Board;
- Publish a newspaper notice that the public has 30 days to review and comment on the proposed settlement.

The settlement proposal will be considered by the Regional Board at the June 8, 2005 Regional Board meeting. A 30-day comment period will be established for Interested Parties to comment on this settlement, beginning May 3, 2005 and ending June 2, 2005. Complete details of the proposed settlement can be found on the Regional Board web site or by contacting Frank Melbourn of the Regional Board at (858) 467-2973 or fmelbourn@waterboards.ca.gov.

F. Metropolitan Transit System and Development Board, Mission Valley Light Rail San Diego, CA. ACL Complaint R9-2005-0062

On March 17, 2005, the Executive Officer issued ACL Complaint No. R9-2005-0062 to Metropolitan Transit System and Development Board (MTDB) in the amount of \$500,000 for violations at the Mission Valley Light Rail Project. The complaint alleges 1 day of sewage discharge, 27 days of sediment discharges to waters of the State, and 449 days of inadequately installed BMPs in violation of the Statewide Construction Storm Water Permit (State Board Order No. 99-08-DWQ).

The Regional Board was scheduled to consider the complaints and assess liability at the May 11, 2005 Regional Board meeting. Since issuance of the complaint the discharger has not provided any written response to the alleged violations. On April 19, 2005, however, representatives of the San Diego Association of Governments (SANDAG)/MTDB requested the matter be postponed indefinitely because they had only recently obtained an environmental consultant and legal counsel. SANDAG/MTDB has also expressed interest in settling the liability and requested a delay in the Regional Board's consideration of this matter to evaluate its options. The ACL hearing on this matter has been postponed and may be considered by the Regional Board at the June 8, 2005 Regional Board meeting.

According to SANDAG, this is the last construction project MTDB is responsible for. All new construction transportation projects have transferred to SANDAG. MTDB is now responsible for operation of trolley lines.

10. Proposed Gregory Canyon Landfill (Carol Tamaki and John Odermatt) (Attachment B-10)

The Regional Board will convene a public workshop (notice attached) from 1:30 pm to 4:30 pm on May 19, 2005 in the City Council Chambers at the City of Escondido. The objectives of the workshop are: (1) to present the proposed Gregory Canyon Landfill project; (2) to answer questions; and (3) to receive input from the public on water quality aspects of the proposed project. The input received from the public workshop will be considered in drafting a tentative Order for the proposed landfill. The Regional Board will not take any action at this Public Workshop.

The Regional Board staff has created a website that includes an electronic copy of the Joint Technical Document (JTD) and updated news regarding the status of the proposed landfill:

http://www.waterboards.ca.gov/sandiego/programs/units/ldu/Canyon%20Project/gregory_canyon_landfill.html

In addition, additional information about the proposed Gregory Canyon Landfill project has been added to the Regional Board electronic mailing list to more effectively provide updated information to Interested Parties. As of May 2, 2005, there were 17 individuals and organizations included in the electronic mailing list. The Regional Board web site now includes an electronic mailing list for proposed Gregory Canyon project at the following URL:

http://www.waterboards.ca.gov/lyrisforms/reg9_subscribe.html

11. Land Disposal Program: Electronic Reporting Requirements (*John Odermatt*)

The Regional Board Land Discharge Unit (LDU) staff has developed Technical Change Orders (TCOs) as a means of effectively implementing the 2005 statewide electronic reporting requirements for facilities regulated under California Code of Regulations (CCR), Title 27 (discharges of nonhazardous wastes to land) and CCR Title 23, Chapter 15 (discharges of hazardous wastes to land). These TCOs modify Monitoring and Reporting Programs at waste management units/landfills regulated by Waste Discharge Requirements (WDRs) in the San Diego Region. The TCOs are designed to:

- Implement the State Water Resources Control Board's statewide electronic reporting requirements under section [3890, CCR Title 23](#), and
- require Dischargers to continue providing the Regional Board with paper copies of technical and monitoring reports.

As of May 2, 2005, the Regional Board has issued TCOs for 11 of the 60 land disposal facilities regulated by WDRs in the San Diego Region. The objective of the LDU staff is to issue TCOs for WDRs at all affected Land Disposal facilities by August 31, 2005. In addition, affected regulatory enforcement actions (Orders issued pursuant to Water Code sections 13304, 13267, etc.) will also require amendments to implement the electronic reporting requirements.

12. Duke Energy, LLC, South Bay Power Plant – Status of Appeals (*John Phillips*)

On November 10, 2004, this Regional Board adopted Order No. 2004-0154, NPDES Permit No. CA0101368, *Waste Discharge Requirements for Duke Energy South Bay, LLC, South Bay Power Plant, San Diego County*. Subsequent to the adoption, Duke Energy and the San Diego Bay Council filed separate petitions to the State Water Resources Control Board (State Board) to have the State Board review the requirements.

On May 3, 2005, the State Board dismissed the petitions. After careful consideration of the issues raised in the petitions the State concluded that the petitions failed to raise substantial issues that are appropriate for review by the State Board. Duke Energy and the San Diego Bay Council have until June 2, 2005 to file for a court appeal.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. State Board Wraps Up San Diego Regional GAMA Study (*Julie Chan*)

The State Board will conclude its study of the groundwater quality in the San Diego Drainages Hydrologic Province by hosting a project wrap-up meeting at the San Diego Regional Board on May 17, 2005, from 10:30 to noon in the hearing room. The study was conducted by the U.S. Geological Survey for the State Board as part of the Groundwater Ambient Monitoring and Assessment (GAMA) Program.

A primary objective of the GAMA program is to provide a current assessment of ground-water quality in areas where public supply wells are an important source of drinking water. The San Diego GAMA study unit was the first region where an assessment of ground-water quality was implemented under the GAMA program. The San Diego GAMA study unit covers the entire San Diego Drainages Hydrologic Province, and is broken down into four distinct hydrologic study areas: the Temecula Valley study area, the Warner Valley study area, the Alluvial Basins study area (comprised of the San Juan, San Mateo, Santa Margarita, San Luis Rey, San Pasqual, Santa Maria, San Diego River, El Cajon, Sweetwater, Cottonwood, Campo, and Potrero Valley basins), and the Hard Rock study area (comprised of areas outside of ground-water basins that are within 3 kilometers of a public supply well). A total of 58 ground-water samples were collected from public supply wells in the San Diego drainages area and were analyzed for over 350 chemical compounds, microbial constituents and water-quality parameters.

The final project report is in review, and is not yet available for public dissemination. Results of the study will be discussed at the wrap-up meeting to be held in the board hearing room on May 17. Regional Board members and staff are invited to attend.

2. Statewide Electronic Data Reporting for Statewide Groundwater Programs (*John Odermatt*)

In September 2004, the State Water Resources Control Board (SWRCB) adopted regulations requiring certain Dischargers begin electronic reporting of information for all groundwater cleanup programs regulated by the Regional Water Quality Control Boards (Regional Boards). For several years, parties responsible for cleanup pollution caused by leaks from underground storage tanks (USTs) have been required to submit groundwater analytical data, the surveyed locations of monitoring wells, and certain other data to the SWRCB's Geotracker database via the internet. On January 1, 2005, the SWRCB's regulations ([section 3890 et seq., Division 3, Title 23, California Code of Regulations](#)) went into effect requiring affected Dischargers to electronically report information and paper copies of data and reports for the Regional Board groundwater programs.

The state regulations for electronic reporting directly affect work in the following Regional Board programs: Leaking UST Program; Spills and Leaks Investigation and Cleanup (SLIC) Cost Recovery Program, Department of Defense Cleanup Program, and Land Disposal Program (landfills). The requirements for electronic data reporting affect all data and "reports" submitted in compliance with the following:

- Existing regulations for USTs (23 CCR Title 23, Chapter 16, Article 11).
- Existing regulations for discharges of waste to land (e.g., landfills, waste piles and surface impoundments) pursuant to 23 CCR Title 23, Chapter 15 (for hazardous wastes) and CCR Title 27 (for nonhazardous wastes).
- Cleanup and abatement orders issued by the Regional Board under section 13304 of the California Water Code.
- Investigative/enforcement related orders issued by the Regional Board under section 13267 of the California Water Code.
- Reports submitted pursuant to any order (e.g., WDRs per section 13263 *et seq.*) or directive of the SWRCB, a Regional Board, or a Local Agency.
- Reports submitted pursuant to the Two-year Joint Cooperative Agreement Execution Plans under the Defense / State Memorandum of Agreement and Navy Cost Recovery Cooperative Agreement, for the State of California.

In addition, [section 3893](#) of the electronic reporting regulations require affected Dischargers to provide additional information to the Geotracker database in an electronic format:

- The latitude and longitude of any permanent monitoring well for which data is reported in EDF format, accurate to within 1 meter and referenced to a minimum of two reference points from the California Spatial Reference System (CSRS-H), if available.
- The surveyed elevation relative to a geodetic datum of any permanent monitoring well.
- The elevation of groundwater in any permanent monitoring well relative to the surveyed elevation.
- A site map or maps showing the location of all sampling points referred to in the report.
- The depth to the screened interval and the length of screened interval for any permanent monitoring well.
- Boring logs, in PDF format.
- A complete copy of the report, in PDF format, which includes the signed transmittal letter and professional certification.

All regulatory deadlines and timeframes for submittals of reports are applicable to the information submitted electronically pursuant to the regulations. After July 1, 2005, Dischargers are required to comply with the electronic reporting requirements and will no longer be required to provide the Regional Boards with paper copies of technical and

monitoring reports. In order to continue receiving paper copies of technical and monitoring reports, the Regional Board must request that Dischargers continue to provide paper copies of technical and monitoring reports.

The Regional Board staff is not responsible for the maintenance and administration of the Geotracker database. Dischargers and members of the Public requesting information on how to access and use the Geotracker database, should contact the SWRCB staff Mr. Hamid Foolad at (916) 341-5791, or the "Geotracker Help Desk" at (866) 480-1028 and via their website: Geotracker@waterboards.ca.gov. The Regional Board has established a link to the Geotracker and Electronic Reporting web sites under "**WATER NEWS**" or you may access the web site directly via the SWRCB's website at: http://www.waterboards.ca.gov/ust/cleanup/electronic_reporting/